IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

ORDER
IN
S.B. Civil Second Appeal No.524/2004

Pratap Narayan & Others
...plaintiff-appellants
Versus
Matadeen & Others
...defendant-respondents
AND
Jagannath & Others
...proforma-defendant-respondents

Date of Order ::: 26.10.2006

Present
Hon'ble Mr. Justice Narendra Kumar Jain

Shri Ravi Shankar Sharma, Counsel for plaintiff-appellants

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By the Court:-

Heard learned counsel for the plaintiff-appellants.

The plaintiff-appellants filed a suit for permanent injunction in respect of disputed way, which was decreed by the lower court. However, on an appeal by the defendants, the first appellate court partly allowed the appeal and, the judgment and decree passed by the lower court was modified to the extent that the plaintiffs and defendants, both, are directed to remove the encroachment from the public way and both the parties are restrained by way of permanent

injunction not to make any trespass over the disputed public way.

I have considered the submissions of learned counsel for the plaintiff-appellants in the light of the judgment and decree passed by both the courts below and after considering his submissions as well as the findings of both the courts below I am of the view that the judgment and decree passed by the first appellate court is correct and there is no illegality or perversity in it. The finding of the first appellate court relates to question of fact, which cannot be interfered with by this court in second appeal under Section 100 of the C.P.C.

No substantial question of law is involved in this second appeal and the same is dismissed in limine.

(Narendra Kumar Jain) J.

//Jaiman//